

Rec'd PCT/PTO 08 OCT 2004
0510912

PATENT COOPERATION TREATY

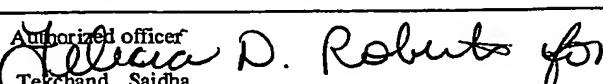
PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

RECEIVED -	
16 JAN 2004	
WIPO	PCT

Applicant's or agent's file reference PCT 21080	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US03/12509	International filing date (day/month/year) 11 April 2003 (11.04.2003)	Priority date (day/month/year) 16 April 2002 (16.04.2002)
International Patent Classification (IPC) or national classification and IPC IPC(7): C12Q1/70; G01N 33/53; C12N 9/00; C07H 21/02, 21/04 and US Cl.: 435/5, 7.9, 183; 536/23.1, 23.2, 23.72		
Applicant MERKE & CO., INC		

<ol style="list-style-type: none"> This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet. <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>0</u> sheets.</p> This report contains indications relating to the following items: <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application
--

Date of submission of the demand 05 November 2003 (05.11.2003)	Date of completion of this report 23 December 2003 (23.12.2003)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703)305-3230	Authorized officer  Tekchand Saidha Telephone No. (703) 308-0196

Form PCT/IPEA/409 (cover sheet)(July 1998)

BEST AVAILABLE COPY

I. Basis of the report

1. With regard to the elements of the international application:*

 the international application as originally filed. the description:pages 1-24 as originally filedpages NONE, filed with the demandpages NONE, filed with the letter of _____ the claims:pages 25-28 as originally filedpages NONE, as amended (together with any statement) under Article 19pages NONE, filed with the demandpages NONE, filed with the letter of _____ the drawings:pages 1-12 as originally filedpages NONE, filed with the demandpages NONE, filed with the letter of _____ the sequence listing part of the description:pages 1-6 as originally filedpages NONE, filed with the demandpages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

 the language of a translation furnished for the purposes of international search (under Rule 23.1(b)). the language of publication of the international application (under Rule 48.3(b)). the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

 contained in the international application in printed form. filed together with the international application in computer readable form. furnished subsequently to this Authority in written form. furnished subsequently to this Authority in computer readable form. The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished. The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. The amendments have resulted in the cancellation of: the description, pages NONE the claims, Nos. NONE the drawings, sheets/fig NONE5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US03/12509**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>1-26</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-26</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-26</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-26 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the assays employing a beta-lactamase reporter system, an HCV replicon enhanced cell construct or a chimeric HCV replicon construct containing a 3'UTR based on the HCV-1a 3'UTR. The closest prior art works of Houghton et al. (1999), Lohmann et al. (2001), Pietschmann et al. (2001) or Lohmann et al. (1999), either alone or in combination do not teach or make the invention obvious.

Claims 1-26 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.